

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.MC.No. 2214 of 2007()

CC.158/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI
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PETITIONER/ACCUSED:

MR.THOMASLY, PROPRIETOR
EDAPPALLY EMPORIUM
EDAPPALLY COMPLEX, TANA P.O.
IRINJALAKKUDA - 680 121.

BY ADV. SRI.S.RAJEEV

RESPONDENTS/COMPLAINANTS:

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1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.
 2. KALYANI SHARP INDIA LIMITED
AMAL COMPLEX, C.P. UMMER ROAD
COCHIN 682 035, BY ITS DULY AUTHORISED
SIGNATORY MR. ASHOK P.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 2214 of 2007

Dated this the 10th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The case has reached the stage of defence evidence. It is submitted at the Bar that the petitioner had applied for permission to examine himself as a witness under Section 315 Cr.P.C. The said request has been allowed also. But the petitioner could not appear before the learned Magistrate on the date to which the case was posted for such examination of the petitioner as a defence witness. The petitioner applied for time. It is submitted at the Bar that no orders have been passed in such application for adjournment to facilitate examination of the petitioner.

2. Be that as it may, the petitioner has now come to this Court with a prayer that the learned Magistrate may be directed to grant the petitioner reasonable further time to examine himself. That is the short prayer made in this Crl.M.C. It is for the petitioner to make such request before the learned Magistrate and the learned Magistrate must consider the same and pass appropriate orders. I am not persuaded to agree that any specific direction can or need be issued

invoking the powers under Section 482 Cr.P.C. Needless to say, the petitioner can seek time to examine himself as a defence witness and the learned Magistrate must pass appropriate orders in such application. If the petitioner is aggrieved by the final disposal of the case without a reasonable opportunity to him to adduce his evidence and substantiate his contentions, the same shall be a ground available to him to challenge the verdict of the Magistrate if such challenge be necessary.

3. This Crl.M.C. is accordingly dismissed with the above observations.

4. Hand over the order.

(R. BASANT)
Judge

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